

**APPENDIX A.
LEASING OF STATE LANDS
AND TIDELANDS
(A.S. 38.05.070)**

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State land, including tide, submerged, and shore land is available to lease by any member of the public, business, or organization that can demonstrate a commercial or industrial need for its use. Current policy dictates that leases for residential or recreation use will not be considered. Various land conveyance programs exist for these purposes.

Leases may be offered competitively through public auction or negotiated directly with the applicant. If the fair market annual rental is determined to be less than \$5000.00, the law allows the State to negotiate that lease directly with the applicant for 10 years or less. However, if it is greater than \$5000, the lease will be offered at a public auction to the highest bidder. The minimum bid will be the appraised fair market value annual rental.

Competitive leases can be issued for a term not to exceed 55 years, while negotiated leases can only be issued for a term of 10 years or less. Within those parameters, the determining factors are the estimated life of the project or the estimated time that the applicant thinks the land will be needed and the extent of the improvements. Land leases that are offered by competitive bid are renewable at the director's discretion. The renewal must be applied for in a timely manner. Leases negotiated under A.S. 38.05.075(b) are not eligible for renewal.

The owner or lessee of land that fronts on tide or submerged land is entitled to acquire a negotiated lease for the tide and submerged land if the requirements of A.S. 38.05.070(c) are met.

Negotiated leases may also be requested by: 1) commercial operators of fishing or hunting camps within an exclusive or joint use guiding area, 2) commercial operators of duck shacks, and 3) shore fishery setnetters seeking an upland lease for use in conjunction with their fishing sites. Parcel size should be limited to the minimum acreage needed. In the case of setnetters, they must provide evidence that they have the necessary limited entry permit to participate in the local fishery and the term of the upland lease should coincide with the term of their shore fishery lease. If they do not have a shore fishery lease, they should apply during the filing period.

Leases may be transferred by assignment with the approval of the chief of Contract Administration. Before approving an assignment of lease, the individual receiving the lease must be determined eligible to participate in the program under which the lease was created and the lease must be in good standing.

It is the responsibility of the applicant to arrange and pay for survey, appraisal, and legal notice publication, and to see that these tasks are carried out in a timely manner when directed to do so by the State. Depending on the time of year, these tasks could be time consuming. If the lease is negotiated, the decision on whether or not to require a survey will be made on a case by case basis and will depend on the type and

extent of existing monumentation, the existing uses of the surrounding land, the likelihood that the surrounding land will be developed during the lease term and any other pertinent factors which may apply to a particular parcel of state land.

The following is a general time table for processing a lease:

1. Application received, serialized and photo copied.
2. In-house and agency review *30 days
3. Preliminary decision.....30 days
4. .945 notice letters (A.S. 38.05.945(c) 30 days
5. .945 public notice (newspaper ad)(AS 38.05.945(b))30 days
6. Survey and appraisal (11 AAC 58.400 - .410) 60 days
7. Final decision..... 10 days
8. .945 notice letters (if competitive offerings).....30 days
9. .945 public notice (if competitive)30 days
10. Lease offering..... 10 days

* Some upland leases and all tideland leases are within the "coastal zone" and other permits may be required from other agencies. These go through another review for consistency with the Alaska Coastal Management Program or approved local coastal plans. Normal review period is 50 days.

In addition to the above mentioned times, applicants must take into consideration delays that may occur if the land is not classified or needs to be reclassified (approximately 90 days - 11 AAC 55). If the land is located within an organized borough, the survey plat must be approved by the local platting authority which requires additional time (11 AAC 53). Applications are processed in the order received and there is currently a backlog of over 2000 casefiles.

Applicants should include the following information with their completed application form:

- Filing fee.
- USGS map 1:63,360 scale with the location marked.
- Development plan and time schedule.
- A clear statement of the intended use of the property.
- Any applicable licenses.

The development plan should contain the following information:

- A description of the type and location of the temporary and/or permanent structures and a scale drawing depicting all proposed structures.
- The intended access to the site.
- An explanation of any clearing or cutting of trees.
- A description of the intended power source and fuel storage area.
- An explanation of the intended solid waste and waste water disposal method.
- The water source.

Applicable statutes for reference:

A.S. 38.05.035 -- Powers and duties of the director.

A.S. 38.05.070 -- Leasing of lands other than for the
-.105 extraction of natural resources.

A.S. 38.05.840 -- Appraisals

A.S. 38.05.920 -- Assignment

A.S. 38.05.945 -- Notice

For additional information, contact the local office of the Department of Natural Resources, Division of Land and Water Management:

Southcentral Regional Office

OFFICE LOCATION:

3601 "C" Street, Tenth Floor
Anchorage, Alaska
Phone: (907) 762-2253

MAILING ADDRESS:

P.O. Box 107005
Anchorage, Alaska 99510-7005

